

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION
CORPORATION,

Adv. Pro. No. 08-01789 (BRL)

Plaintiff,

SIPA LIQUIDATION

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

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In re:

BERNARD L. MADOFF,

Chapter 7

Debtor.

Case No. 09-11893 (BRL)

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**DECLARATION OF ADAM KATZ IN SUPPORT OF
MOTION OF TALON AIR, INC. FOR ORDER (A) COMPELLING
BLMIS TRUSTEE TO PAY EXPENSES AND PERFORM
CONTRACTUAL OBLIGATIONS UNDER AIRCRAFT MANAGEMENT
AGREEMENT, (B) FIXING TIME FOR BLMIS TRUSTEE TO ASSUME OR
REJECT AIRCRAFT MANAGEMENT AGREEMENT AND (C) MODIFYING
STAYS TO PERMIT TERMINATION OF AIRCRAFT LEASE AGREEMENT**

Adam Katz, hereby declares under penalty of perjury as follows:

1. I am the President of Talon Air, Inc. (the "Movant"). Movant is a creditor of Bernard L. Madoff Investment Securities LLC ("BLMIS") and a party in interest in the Bernard L. Madoff chapter 7 case.

2. I submit this declaration in support of the Movant's motion (the "Motion")¹ for an order (a) compelling Irving H. Picard (the "BLMIS Trustee") to pay certain expenses under a management agreement related to that certain Embraer Legacy 600, Model EMB-135 BJ aircraft (Serial No. 14501034) (the "Aircraft"), (b) fixing the time for the BLMIS Trustee to assume or reject the management agreement and (c) modifying the automatic stays in both the BLMIS case and

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

the Bernard Madoff individual case to the extent necessary to permit Movant to terminate a lease agreement with BLM Air Charter LLC, a non-debtor party, relating to the Aircraft.

3. Movant is a party to that certain Aircraft Pilot and Management Services Agreement, dated March 3, 2008 (the "Management Agreement") executed by BLMIS, Talon and BDG MLF, Inc. (A copy of the Management Agreement is annexed hereto as Exhibit "A".)

4. On March 3, 2008, BDG and BLM, as lessors, and Movant, as lessee, entered into that certain Non-Exclusive Aircraft Lease Agreement, dated as of March 3, 2008 (the "Lease Agreement"). Neither BLMIS nor Bernard Madoff are parties to the Lease Agreement. (A copy of the Lease Agreement is annexed hereto as Exhibit "B".)

5. I have read the Motion and I am personally familiar with the facts set forth in the Motion which are accurate to the best of my information and belief.

6. Since December 12, 2008, when the first trustee was appointed in the BLMIS case, Movant has continued to perform under both the Management Agreement and the Lease Agreement and has paid substantial expenses relating to the preservation and maintenance of the Aircraft.

7. As set forth in Exhibit "C" annexed hereto, for the period December 12, 2008 through April 30, 2009, Movant has paid or will pay significant expenses related to the maintenance and servicing of the Aircraft. The payment of those essential maintenance expenses unquestionably has preserved the value of the Aircraft.

8. It has been five (5) months since the BLMIS Trustee has been appointed which is more than ample time to decide whether he will assume or reject the Management Agreement.

9. It is prejudicial to Movant to be asked to continue to perform services under the Management Agreement when the BLMIS Trustee is not performing his obligations under the Management Agreement.

10. In addition, BLM cannot perform under the Lease Agreement and Movant would like to terminate the Lease Agreement. Although none of the parties to the Lease Agreement are

debtors in the above referenced cases, I am advised that Movant should seek an order modifying this Court's stay and 11 U.S.C. §362 before proceeding with termination of the Lease Agreement.

11. Annexed hereto as Exhibit "C" is a chart which indicates the amounts owed to the Movant under the Management Agreement, as well as the amounts Movant owes to BLM under the Lease Agreement.

12. For the above reasons and the reasons set forth in the Motion, I respectfully request that the Motion be granted in all respects.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Great Neck, New York on May 19, 2009

s/ Adam Katz

Adam Katz